Subject cont'd

Q's together form a divalent anionic chelating ligand; where n is 0, 1 or 2 depending on the formal oxidation state of M, x is an integer from 1 to 4, and wherein the catalyst system is supported.

Please cancel claim 6.

REMARKS

Reconsideration of the present claims, in light of claim clarifications and the Remarks which follow, is respectfully requested.

Claims now before the Examiner are 4,5, 7-13 and 40.

The amendment to claim 4 incorporates now cancelled claim 6.

The numbering in this response will follow that of the Examiner's Action.

1. No response necessary.

2. Under separate cover another IDS including two Canadian references is being re-submitted. The previously submitted documents were not legible, according to the USPTO.

Rejections under 35 U.S.C. § 112

3. Claims 11-12 and 40 stand rejected under 35 U.S.C. § 112, second paragraph as indefinite. The Examiner states "... the scope of all claim terminology must be clear. In this case it is not, and applicants' remarks [of 7/26/02] contain nothing which clarifies the new meaning".

Applicants have used the phrases "cyclopentadienyl-type" and "bulky" to generally modify "ligand"; and "metallocene-type" is generally used to modify "catalyst" or "compound".

In the previous Response, Applicants explained where in the Specification the metes and bounds of these terms were found, and added language from another publication directed to these terms.

In the first action (Paper No. 4), the Examiner stated what he believed the definition of "cyclopentadienyl" and "metallocene" to be. However, no evidence has been provided. Such evidence is respectfully requested.

Additionally, the Examiner has not provided Applicants with specifics to enable Applicants to understand the Rejection. Such specifics might include which portions of paragraphs **011-013** indicate that the "... intended scope is substantially larger than that which the ordinary skilled worker would infer from the claims". Such specifics are respectfully requested in lieu of a withdrawal of the Rejection, or in the alternative, withdrawal is respectfully requested.

Rejections Under 35 USC § 102

4. Claims 4, 5 and 7 stand Rejected under 35 U.S.C. § 102(b) as anticipated by Chen (Organometallics 1999)

Claim 4 has been amended to include the element of now cancelled claim 6. Chen does not disclose supports. Accordingly, withdrawal of the Rejection is respectfully requested.

5. Claims 4, 5 and 7-12 stand Rejected under 35 U.S.C. 102(b) as anticipated by Langhauser.

Applicants earnestly request a specific response to Applicants' detailed explanation of the differences between Langhauser's spiro compounds and the claimed compounds, contained in the Response of July 26, 2002. If there is an error in the technical reasoning as to why the present claim elements do not include the spiro compounds of Langhauser, or in the description of a "spiro" compound, as stated by the Applicants as skilled persons, Applicants respectfully request specifics to address any such error.

In the absence of such specifics, Applicants respectfully request withdrawal of the Rejection.

Rejection Under 35 USC § 103

6. Claims 4-12 stand Rejected under 35 U.S.C. § 103(a) as obvious over Winter.

What Applicants find lacking in Winter is the required "road map" to combining disparate elements of Winter to arrive at Applicants' claim elements, absent hindsight reconstruction. Applicants respectfully request that the Examiner provide the specific

technical reasoning based on Winter, that constitutes motivation, as Applicants do not find such motivation.

Applicants maintain that there is no motivation to combine these disparate elements of Winter, and absent such motivational elements, the Rejection appears to be one of "obvious to try", which is not a proper basis for an obviousness rejection.

Withdrawal of the Rejection is respectfully requested.

With respect to claim 6, the issue raised by the Examiner of "...use of supported polymerization catalyst ... has been conventional for decades". The concern is whether the prior art of record discloses, suggests or provides motivation to combine the elements, in the prior art of record, to render obvious Applicants' claims. Applicants do not believe that it does.

Withdrawal of the Rejection is respectfully requested.

7. Claim 6 stands rejected under 35 U.S.C. § 103(a) as obvious over U.S. 5,491,205 (Langhauser)

For the reasons stated in 5 above, Applicants request clarification. In the absence of clarification, withdrawal of the Rejection is respectfully requested.

8., 9., & 10. No response necessary.

All of the Examiner's rejections and objections have been addressed.

The claims are in condition for allowance.

Note is made that the correspondence should be sent to:

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Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8(a)

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on January 21, 2003.

Douglas W. Miller
Registration No. 36,608

APPENDIX A

CLAIMS MARKED-UP TO SHOW CHANGES MADE

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4. (twice amended) A catalyst system for polymerizing ethylene alone or in combination with one or more olefin(s), comprising a cyclic germanium bridged bulky ligand metallocene-type catalyst compound and an activator, wherein the cyclic germanium bridged bulky ligand metallocene-type catalyst compound is represented by the formula:

$$L^A(R'GeR')_xL^BMQ_n \qquad (I)$$

where M is a Group 3 to 7 transition metal, each of L^A and L^B is an unsubstituted or substituted, cyclopentadienyl ligand or cyclopentadienyl-type bulky ligand bonded to M; $(R'GeR')_x$ is a cyclic bridging group bridging L^A and L^B, [and] the two R"s form a cyclic ring or ring system with Ge; independently, each Q is a monoanionic ligand, or optionally two Q's together form a divalent anionic chelating ligand; [and] where n is 0, 1 or 2 depending on the formal oxidation state of M, [and] x is an integer from 1 to 4; and wherein the catalyst system is supported.

6. Cancel